

REMARKS***Remaining Claims***

Claims 15 has been canceled and Claims 1,21-24 have been amended to more clearly point out and distinctly claim the invention. Claim 1 has been amended to require the use of tyloxapol and 0.001% to 0.5% poloxamer. Supports for Claim 1 amendments can be found from Claim 15 and paragraph 55 of the present invention as the US patent application publication of US 2004/0142829 A1. Supports for Amendments for Claims 21 and 23 can be found from original claims 21 and 23 and paragraphs 54 and 55 of the present invention as the US patent application publication of US 2004/0142829 A1. After these amendments are entered, twenty-two (22) claims (Claims 1, 3 – 10, and 12 – 24) remain under consideration in this application.

Claim Rejections under 35 U.S.C §102(e)/ §103 – Schwind, et al.

Claims 1, 3 – 10, 12- 14, 16 – 19, 21, and 23 are rejected under 35 USC §102(e) as being anticipated by or, in the alternative, under 35 USC §103(a) as obvious over *Schwind, et al.* (WO 2002/0155961).

Schwind, et al. neither teach nor suggest such a lens care composition. *Schwind, et al.* does not teach a solution having less than 0.1% phosphate buffer, less than 1 ppm of a polymeric antimicrobial, a total concentration of chloride ions and phosphate ions below 1500 ppm, tyloxapol and 0.001% and 0.5% poloxamer – all as required by Claim 1. As such, the present invention as currently claimed is clearly not anticipated by the cited reference.

Applicants respectively submit that a prima facial case of obvious has not been established , because *Schwind, et al* neither teach nor suggest all of the limitations of the present invention as claimed in claim 1.

Claims 3 – 10, 12-14, and 16 - 19 depend from Claim 1 and likewise, cannot be anticipated or rendered obvious by *Schwind, et al.* Claims 21 and 23 further claim a phosphate buffer that is lower than 0.06% (Claim 21) or between 0.001 and 0.05% (Claim 23). These levels of phosphate buffer are not taught or suggested by *Schwind, et al.* Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim Rejections under 35 U.S.C §102(e)/ §103 – Groemminger, et al.

Claims 1,3 – 8, 12, 14 – 15, 17 – 20 are rejected under 35 USC §102(e) as being anticipated by or, in the alternative, under 35 USC §103(a), as obvious over *Groemminger, et al.* (US 6,872,695).

As explained above, Claim 1 has been amended to incorporate the requirements of tyloxapol and 0.001% to 0.5% poloxamer. *Groemminger, et al.* neither teach nor suggest such a lens care composition. Specifically, *Groemminger, et al.* do not teach the use of tyloxapol and 0.001% to 0.5% poloxamer. As such, the present invention as currently claimed is clearly not anticipated by the cited reference.

Applicants respectively submit that a prima facial case of obvious has not been established , because *Groemminger, et al* neither teach nor suggest all of the limitations of the present invention as claimed in claim 1.

Claims 3 – 8, 12, 14, and 17 - 20 depend from Claim 1 and likewise, cannot be anticipated or rendered obvious by *Groemminger , et al.* Accordingly, Applicants respectfully request that this rejection be withdrawn.

Claim Rejections under 35 U.S.C §103 – Schwind, et al. in view of Hu, et al.

The rejection of claim 15 is in moot in view of the cancellation of the claim.

Claim Rejections under 35 U.S.C §103 – Schwind, et al. in view of Groemminger, et al.

Claims 20, 22, and 24 stand rejected under 35 USC §103(a) as being unpatentable over *Schwind, et al.* (WO 2002/0155961) in view of *Groemminger, et al.* (US 6,872,695).

Claim 20 is dependent from Claim 1; Claim 22 is dependent from Claim 21; and Claim 24 is dependent from Claim 23. With regard to Claims 1, 21, and 23, *Schwind, et al.* has been discussed above. *Groemminger, et al.* do not provide further teachings that would render the invention claimed in Claim 1, 21, and 23 obvious. Accordingly, Applicants respectfully request that this rejection be withdrawn.

Double Patenting Rejections

Claims 1 – 24 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims 1 – 4 of 6261546; Claims 1 – 15 of 5858996; Claims 1 – 12 of 5846919; Claims 1 – 5 of 5807585; Claims 1 – 5 of 5683993; Claims 1 – 11 of 5576276;

None of these references claim the currently claimed lens care composition. The references do not teach a solution a solution having less than 0.1% phosphate buffer, less than 1 ppm of a polymeric antimicrobial, a total concentration of chloride ions and phosphate ions below 1500 ppm, tyloxapol and 0.001% to 0.5% poloxamer – all as required by Claim 1 – all as required by Claims 1 - 24.

Claims 1,3-10,13-24 are provisionally rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over Claims copending Application No. 09/963,972; 11/078,209; 11/212,957 and 11/212,959.

None of these references claim the currently claimed lens care composition. The references do not teach a solution a solution having less than 0.1% phosphate buffer, less than 1 ppm of a polymeric antimicrobial, a total concentration of chloride ions and phosphate ions below 1500 ppm, tyloxapol and 0.001% to 0.5% poloxamer --all as required by Claims 1,3-10,13-24.

CONCLUSION

In view of the foregoing and in conclusion, Applicants submit that all of the pending claims are now in conditions for allowance.

Should the Examiner believe that a discussion with Applicants' representative would further the prosecution of this application, the Examiner is respectfully invited to contact the undersigned. The Commissioner is hereby authorized to charge any other fees which may be required under 37 C.F.R. §§1.16 and 1.17, or credit any overpayment, to Deposit Account No. 50-2965.

Respectfully submitted,


Sheng-Hsin Hu
Reg. No. 50,328
(678) 415-3171

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Novartis
Corporate Intellectual Property
One Health Plaza, Building 104
East Hanover, NJ 07936-1080